## IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF VIRGINIA CHARLOTTESVILLE DIVISION

BRYCE DOWNIE,	)	CASE NO. 3:05CV00021
Plaintiff,	)	CLERK'S OFFICE U.S. DIST. COURT AT CHARLOTTESVILLE, VA
v.	)	ORDER CONTRACTOR
	)	CC1 3 0 2006
REVCO DISCOUNT DRUG	. )	JOHN F CORCORAN, CLERK
CENTERS, INC., et al.,	)	$BY \rightarrow (1) (1) (1) (1)$
	)	DEPUTY CLEAK
Defendants.	)	
	)	By: B. WAUGH CRIGLER
	)	U.S. MAGISTRATE JUDGE

Defendant has filed a Motion To Tax Costs pursuant to Rule 54(d)(1). Plaintiff opposes the motion on the grounds the "prevailing party" standard set forth under the fee and cost shifting provisions of 42 U.S.C. § 12205 cannot justify the award of costs sought by defendant because it is not a prevailing party, its motion is untimely, it conducted itself in a manner which increased discovery costs, and the financial position of plaintiff, as compared to defendant, is such that an award of costs would be "outrageous."

Plaintiff's argument is misplaced in that 28 U.S.C. § 1920 allows for the taxation of specific categories of costs in favor of the party in whose favor judgment has been entered irrespective of whether fees and other litigation-related costs are shifted under a particular statutory scheme. In other words, the costs specified in 28 U.S.C. § 1920 are separate, distinct and are to be awarded without consideration of the provisions of 42 U.S.C. § 12205 and the decisions rendered thereunder.

As plaintiff offers no other substantive objection to the defendant's motion, it therefore is

ORDERED

as follows:

- 1. Defendant's Motion To Tax Costs is GRANTED and defendant hereby is AWARDED costs in the amount of Seven Thousand Two Hundred Fifty Dollars and 68/100 (\$7,250.68) to be taxed by the Clerk against the plaintiff as part of the final judgment in this action;
  - 2. Plaintiff's motion for an award of attorney's fees is DENIED.<sup>1</sup>

The Clerk of the Court is hereby directed to transmit a copy of this Order to all counsel of record.

ENTERED:

U.S. Magistrate Judge

Date

<sup>&</sup>lt;sup>1</sup>In his objections, plaintiff moves for an award of attorney's fees incurred in responding to defendant's motion. (Pl's Objections, pp. 2, 5.) That motion is equally unfounded for the reasons set forth above.